

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Implementation of the Pay Telephone)
Reclassification and Compensation)
Provisions of the Telecommunications)
Act of 1996)
)
BellSouth Comparatively Efficient)
Interconnection Plan for Payphone)
Service Providers)
)

~~DOCKETED FOR COMMENT~~

CC Docket No. 96-128

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COMMENTS OF ONCOR COMMUNICATIONS, INC. FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Oncor Communications, Inc., by its attorneys, hereby submits its comments on the BellSouth CEI Plan filed with the Commission November 22, 1996,¹ and states as follows:

INTRODUCTION

Oncor is a provider of interstate interexchange operator-assisted (0+) calling services. Oncor provides 0+ services from Bell Operating Company (BOC) public payphones, including payphones in BellSouth's local exchange service territories. Oncor is the presubscribed carrier serving such payphones pursuant to agreements entered into between it and payphone location providers (*i.e.*, the owners of the premises where the payphones are located). Oncor competes with other service providers to be the presubscribed carrier at BOC payphones pursuant to the premises owner selection plan established in 1988 by the U. S. District Court for the District of Columbia.² Prior to enactment of the Telecommunications Act of 1996,³ and the

¹See Public Notice - Pleading Cycle Established For Comments On BellSouth's Comparably Efficient Interconnection Plan For Payphone Service Providers, DA 96-2005, released November 27, 1996.

²See United States v. Western Electric Company, 698 F. Supp. 348 (D.D.C. 1988).

³Pub. Law. 104-104, 110 Stat. 56 (1996).

Commission's recent promulgation of rules to implement Section 276 of the Communications Act added to the Act by the 1996 Telecommunications Act, the BOCs, including BellSouth, were excluded from any participation in the payphone interexchange carrier selection process. Their only role was to implement the Presubscribed Interexchange Carrier ("PIC") selections made by payphone location owners.

Section 276 of the Communications Act of 1934, added to the Act by the 1996 Telecommunications Act, mandates the reclassification of BOC payphone service and requires the Commission to promulgate regulations for that purpose. Whether, and subject to what conditions, BOCs, including BellSouth, should be permitted to participate in the payphone interexchange carrier selection process is addressed by Section 276(b)(1)(D) of the Act. That provision obligates the Commission to establish regulations that:

provide for Bell operating company payphone service providers to have the same right that independent payphone providers have to negotiate with the location provider on the location provider's selecting and contracting with, and, subject to the terms of any agreement with the location provider, to select and contract with the carriers that carry interLATA calls from their payphones, unless the Commission determines in the rulemaking pursuant to this section that it is not in the public interest;⁴

In its Payphone Reclassification Order,⁵ the Commission concluded that allowing BOCs to negotiate with location providers regarding the selection of interLATA service providers from the BOC payphones on their premises would serve the public interest. This determination by the Commission fundamentally changes BellSouth's and other BOCs' roles in the PIC selection

⁴47 U.S.C. § 276(b)(1)(D).

⁵Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996 (Report and Order), FCC 96-388, released September 20, 1996; Order on Reconsideration, FCC 96-439, released November 8, 1996 ("Payphone Reclassification Order").

process from payphones in their regions, and changes those companies' incentives in fulfillment of their current responsibilities.

Significantly, the Commission's determination to allow BOCs, including BellSouth, to negotiate with location providers was not unconditional. Rather, that permission is expressly conditioned on each BOC submitting to the Commission and obtaining Commission approval of a Comparatively Efficient Interconnection ("CEI") plan.⁶ Notwithstanding that requirement, BellSouth has commenced its efforts to become the selector of interexchange services for payphone location providers prior to the filing and approval of a CEI plan as required by the Commission. Therefore, in evaluating BellSouth's CEI plan, Oncor urges the Commission to consider not only the plan itself as submitted to the Commission, but, more importantly, the Commission should focus on BellSouth's actual conduct regarding payphone services, including selection of interexchange carriers to serve payphones.

**I. BellSouth's Payphone CEI Plan Contains No
Protections Against Discrimination By BellSouth
In Pursuing Agreements With Location Providers Regarding
Selection Of Interexchange Service Providers From Payphones
or Against Mismanagement by BellSouth in its Important
Role as PIC Administrator for Payphones in its Region**

Oncor has reviewed BellSouth's payphone CEI plan from its perspective as a company which competes in the market for operator-assisted interexchange services from payphones, including local exchange carrier payphones. Based upon that review, Oncor is concerned that the BellSouth CEI plan does not contain provisions which will either restrain anticompetitive behavior by BellSouth in the negotiations with location owners regarding interexchange services from BellSouth payphones, or protect the integrity of the payphone PIC selection and ordering processes. It is imperative that BellSouth's payphone CEI plan, as well as those of other BOCs,

⁶Payphone Reclassification Order, *supra* at ¶¶ 237, 239.

contain adequate and appropriate safeguards to avoid tainting the fairness of the presubscribed carrier selection process. In this regard, it is critical to recognize BellSouth's role, not only as an entity which will be competing with interexchange carriers and other third parties with regard to location provider contracts, but also as the entity which acts as the order processing agent for all interexchange carriers' PIC changes. Once BellSouth becomes allowed to negotiate with payphone location owners regarding the selection of interLATA carriers from payphones, BellSouth will be both a competitor and the administrator of the PIC ordering process.⁷ Because these dual roles will place BellSouth in an inherent conflict of interest situation, it becomes critical that its CEI plan contain sufficient safeguards to protect against BellSouth acting in its role as PIC administrator in a manner which undermines competition in the marketing of interexchange services from payphone locations.

The entirety of BellSouth's 13 page payphone CEI plan is directed to so-called "equal access" parameters governing interconnection services to other payphone providers. In other words, BellSouth's CEI plan is limited to the payphone services market. In reviewing the plan, Oncor was shocked and disappointed to discover that nothing in the plan in any way addresses BellSouth's ability to discriminate or to exploit advantages it enjoys as the steward of the PIC ordering process in the solicitation of interexchange carrier agreements with payphone location providers, including owners of premises where BellSouth payphones are located, or in the implementation of PIC selections for lines associated with BellSouth payphones. BellSouth's plan is silent in this regard despite the Commission's express recognition of the importance of meaningful consumer choice in interexchange service provider selection. As the Commission

⁷In a sense, BellSouth will become a contestant in the PIC selection contest and a referee of the contest at the same time.

stated in the Payphone Reclassification Order:

. . . a location provider's ability to choose should be protected from unjust and unreasonable practices which seek to foreclose meaningful choice. Such practices include unreasonable interference with pre-existing agreements between location providers and payphone service providers or carriers, or conduct which is unduly coercive of the location provider's right to choose the carrier for payphones on its premises. Such conduct may violate Section 201 of the Act, which proscribes unjust and unreasonable practices by common carriers.⁸

In order to comply with the letter and the spirit of the Commission's CEI requirement for BOC payphone services, BellSouth's CEI plan must contain specific provisions which address the following critical points:

1. Describe in detail how BellSouth will manage the payphone PIC selection and order implementation process;
2. Describe how BellSouth will ensure that all PIC orders obtained pursuant to BellSouth agreements with location owners will not be treated differently than those obtained by other vendors, and that all valid PIC orders and location provider agreements will be honored and will not be subject to interference by BellSouth or anyone else;
3. Describe how BellSouth marketing and sales personnel will be trained and supervised to ensure that they do not misrepresent BellSouth's role in the payphone PIC selection process;
4. Describe how BellSouth personnel involved in the PIC ordering and implementation processes will be trained and supervised to ensure that they do not abuse their roles in the PIC ordering process so as to interfere with the sales and marketing of interexchange services from payphones.

II. BellSouth Has "Jumped The Gun" By Beginning
To Procure Payphone Location Owner Agreements
Before It Even Has Filed Its CEI Plan With The Commission

In mandating that the BOCs file with the Commission and obtain Commission approval of CEI plans governing their participation in the payphone services market, the Commission

⁸Payphone Reclassification Order, *supra* at ¶ 242.

made clear that such approval must be obtained before the BOC commences efforts to contract with location owners pursuant to Section 276(b)(1)(D):

Since we are relying on the nonstructural and accounting safeguards established pursuant to Section 276(b)(1)(C) to deter anticompetitive conduct, however, we believe that it is prudent to ensure that such safeguards are in place before the BOCs are allowed to participate in interLATA presubscription for their pay telephones. Accordingly, a BOC will not be allowed to engage in the conduct authorized by Section 276(b)(1)(D) until it has submitted and received approval of an initial CEI plan filed pursuant to Section 276(b)(1)(C). We find that this is a reasonable requirement for meeting our statutory mandate of protecting the public interest in this area.⁹

Although BellSouth submitted its payphone CEI plan on November 22, 1996, and although that plan has not yet been approved by the Commission, Oncor has learned that BellSouth already has been actively engaged in efforts to contract with payphone location providers regarding the selection of interexchange carriers from BellSouth payphones, and that it has been doing so for some time. Attached to these comments is a letter dated September 12, 1996 from BellSouth to a payphone location premises owner in South Carolina.¹⁰ As indicated in that letter dated eight days prior to adoption and release of the Payphone Reclassification Order, BellSouth already has begun to provide location owners with long distance agreements authorizing BellSouth to "arrange interexchange long distance payphone service" on the location provider's behalf "when federal rules implementing the Telecommunications Act of 1996 go into effect in November."¹¹

⁹Payphone Reclassification Order, *supra* at ¶ 239 (emphasis added).

¹⁰Letter from Dianne Leno, Telemarketing Representative, BellSouth Business Systems, Inc. to an unidentified location owner, dated September 12, 1996. The location owner's name has been deleted from this letter.

¹¹Also attached hereto is a copy of an "Agreement For Service Negotiation Rights" between BellSouth and payphone location providers. That agreement provides for a one-time "signing

Of course, until such time as BellSouth's CEI plan is approved by the Commission, it is not entitled to enter into such agreements with location owners, and the current existence of such agreements does not entitle BellSouth to reject validly-obtained and properly-confirmed interexchange service agreements between other persons (including Oncor) and payphone location providers. Indeed, if BellSouth is disregarding validly-obtained and properly-confirmed PIC carrier selections of other carriers and selecting the presubscribed IXC for those payphone locations itself, BellSouth may be in violation of Section 258 of the Communications Act¹² and the Commission's rules and policies prohibiting "slamming."¹³ These circumstances make it imperative that BellSouth's payphone CEI plan be amended to provide the necessary assurances that BellSouth will fulfill its role as administrator of the payphone PIC selection process in a manner which does not enable it to compete unfairly in the competition for selection of interexchange carriers from payphones.

CONCLUSION

As described in these comments, BellSouth's payphone CEI plan contains no provisions which in any way address BellSouth's role in the PIC selection process from payphones. Nothing in the plan will protect the public, including competing providers of interexchange services from payphones, against the improper efforts by BellSouth to select -- and perhaps ultimately to provide -- interexchange services from BellSouth payphones. Neither does the plan

bonus" of \$25.00, as well as commission payments of 20 percent of interLATA 0+ and 0- toll revenues. This agreement was attached to the September 12, 1996 letter. Thus, it appears that BellSouth is routinely offering such agreements regarding selection of interexchange carriers from BellSouth's payphones prior to approval of its payphone CEI plan.

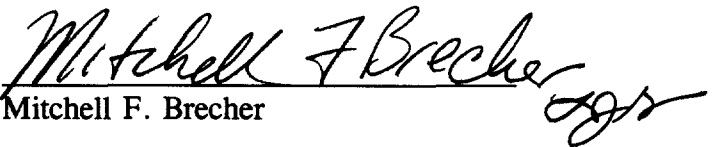
¹²47 U.S.C. § 258.

¹³47 C.F.R. § 64.1100. See also Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, 10 FCC Rcd 9560 (1995); Policies and Rules Concerning Changing Long Distance Carriers, 7 FCC Rcd 1038 (1992).

address how BellSouth intends to fulfill its responsibilities as the PIC order administrator. That will be a critical aspect of BellSouth's payphone plans in light of its impending entry into the ability to negotiate with location providers regarding PIC selections. Moreover, BellSouth has commenced the active solicitation of agreements with payphone location providers regarding selection of interexchange service providers from BellSouth payphones prior to its filing and approval of a payphone CEI plan as expressly required by the Payphone Reclassification Order. Accordingly, Oncor objects to BellSouth's payphone CEI plan for its exclusion of any provisions to ensure that BellSouth will neither discriminate against competitors in the selection of interexchange services from its payphones nor that it will mismanage the PIC ordering process in its role as PIC administrator throughout its service areas. For the reasons stated in these comments, Oncor respectfully urges the Commission to require BellSouth to modify its payphone CEI plan to provide sufficient safeguards for the interexchange services market from payphones as well as the payphone services market itself.

Respectfully submitted,

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December 30, 1996

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CERTIFICATE OF SERVICE

I, Antoinette R. Mebane, a secretary at the law firm of Fleischman and Walsh, L.L.P., hereby certify that a copy of the foregoing "*Comments of Oncor, Inc.*" in Docket 96-128, was served this 30th day of December, 1996, upon the following:

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Plan for Payphone Service Providers)

CC Docket No. 96-128

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BELLSOUTH CEI PLAN

BELLSOUTH CORPORATION

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BELLSOUTH CEI PLAN

BellSouth Corporation, on behalf of BellSouth Telecommunications, Inc., and its affiliated companies ("BellSouth"), hereby submits this Comparably Efficient Interconnection (CEI) Plan for payphone service providers in accordance with the Commission's requirements.¹

Introduction and Summary

In the *Report and Order*, as modified by the *Reconsideration Order*, the Commission deregulated all payphone equipment and established a requirement that local exchange carriers (LECs) provide the same tariffed payphone services to other payphone service providers (PSPs) that they provide to their own payphone operations. In addition, pursuant to Section 276(b)(1)(C) of the Act, the Commission imposed additional nonstructural safeguard requirements on BOCs' payphone services. In particular, the Commission required BOCs to meet

¹ *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, *Report and Order*, FCC 96-388 (September 20, 1996) and *Order on Reconsideration*, FCC 96-439 (November 8, 1996).

the nonstructural safeguards standard originally adopted for integrated enhanced service operations in the *Computer III*² and *ONA*³ proceedings. Specifically, the Commission directed the BOCs to file CEI plans describing how they would comply with the Computer III unbundling and CEI parameters, accounting requirements, customer proprietary network information (CPNI) requirements as modified by Section 222 of the Act, network disclosure requirements, and installation, maintenance and quality nondiscrimination requirements. In this Plan, BellSouth satisfies that directive.

² See Amendment of Section 64.702 of the Commission's Rules and Regulations (*Computer III*), CC Docket No. 85-229, Phase I, 104 FCC 2d 958 (1986) (*Phase I Order*), recon., 2 FCC Rcd 3035 (1987) (*Phase I Reconsideration Order*), further recon., 3 FCC Rcd 1135 (1988) (*Phase I Further Reconsideration Order*), second further recon., 4 FCC Rcd 5927 (1989) (*Phase I Second Further Reconsideration Order*); (*Phase I Order* and *Phase I Reconsideration Order* vacated *California v. FCC*, 905 F.2d 1217 (9th Cir. 1990) (*California I*); Phase II, 2 FCC Rcd 3072 (1987) (*Computer III Phase II Order*), recon., 3 FCC Rcd 1150 (1988) (*Phase II Reconsideration Order*, further recon., 4 FCC Rcd 5927 (1989) (*Phase II Further Reconsideration Order*); Phase II Order vacated *California I*, 905 F.2d 1217 (9th Cir. 1990); Computer III Remand Proceeding, 5 FCC Rcd 7719 (1990) (*ONA Remand Order*), recon., 7 FCC Rcd 909 (1992), *pets. for review denied*, *California v. FCC*, 4 F.3d 1505 (9th Cir. 1993) (*California II*); Computer III Remand Proceedings: Bell Operating Company Safeguards and Tier 1 Local Exchange Company Safeguards, 6 FCC Rcd 7571 (1991) (*BOC Safeguards Order*), *BOC Safeguards Order vacated in part and remanded*, *California v. FCC*, 39 F.3d 919 (9th Cir. 1994) (*California III*), *cert. denied*, 115 S.Ct. 1427 (1995). See also Bell Operating Companies' Joint Petition for Waiver of *Computer II* Rules, Memorandum Opinion and Order, 10 FCC Rcd 1724 (1995); *Computer III* Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services, 10 FCC Rcd 8360 (1995).

³ Filing and Review of Open Network Architecture Plans, 4 FCC Rcd 1 (1988) (*BOC ONA Order*), recon., 5 FCC Rcd 3084 (1990) (*BOC ONA Reconsideration*); 5 FCC Rcd 3103 (1990) (*BOC ONA Amendment Order*), *erratum*, 5 FCC Rcd 4045, *pets. for review denied*, *California v. FCC*, 4 F.3d 1505 (9th Cir. 1993), recon., 8 FCC Rcd 97 (1993) (*BOC ONA Amendment Reconsideration Order*); 6 FCC Rcd 7646, 7649-50 (1991) (*BOC ONA Further Amendment Order*); 8 FCC Rcd 2606 (1993) (*BOC ONA Second Further Amendment Order*), *pet. for review denied*, *California v. FCC*, 4 F.3d 1505 (9th Cir. 1993).

First, however, it should be noted that while the Commission has not imposed any requirement that a BOC conduct its payphone operations through a separate corporate entity, BellSouth has chosen for independent reasons to conduct its payphone operations through a corporate entity distinct from its basic service operations. The new entity, BellSouth Public Communications, Inc. ("BSPC"), is a wholly owned subsidiary of BBS Holdings, Inc., which itself is a wholly owned subsidiary of BellSouth Telecommunications, Inc., the provider of basic services and to whom the CEI obligations attach. As the Commission previously has recognized, the CEI requirements are easily met when a BOC's enhanced service, or, in this case, payphone service, is operated through a distinct entity.⁴

Short Description of Service

The Commission requires a BOC to include in its CEI plan a short general description of the services covered by the plan to notify the Commission of the utility and purposes of the CEI arrangements described in the plan.⁵ This Plan covers the nondiscriminatory provision of basic telecommunications services to providers of payphone services, including BSPC. Consistent with Section 276 of the Communications Act of 1934, as amended, the term "payphone service" as used in this Plan means the provision of public and semi-public pay telephones, the provision of inmate service in correctional institutions, and any ancillary services.⁶

⁴ *Id.*, at n.220.

⁵ *Computer III Phase I Order*, 104 FCC 2d at 1054-55.

⁶ *See*, 47 U.S.C. § 276(d).

Compliance With CEI Parameters

In the *Computer III* proceeding, the Commission adopted certain CEI "equal access" parameters to ensure that the basic services available to a BOC's enhanced service operations are available to other enhanced service providers in an equally efficient manner. In the *Report and Order*, the Commission adapted these requirements to BOCs' offerings of payphone services and required BOCs to describe in their CEI plans how they would satisfy each of the CEI "equal access" parameters in the offering of payphone services. BellSouth addresses each of those parameters below.

Interface Functionality. "As part of its CEI offering, a carrier must make available standardized hardware and software interfaces that are able to support transmission, switching, and signaling functions identical to those utilized in the [payphone] service provided by the carrier."⁷ BellSouth will satisfy this requirement by having BSPC purchase and utilize the same tariffed services that are available to other providers of payphone services. As the Commission noted in the *Computer III Phase I Order*, "if a carrier's enhanced service is not offered from a facility that is collocated with its basic network facilities, but connects to the network through a standard interface and standard transport facilities that are available to the public under tariff, compliance with the CEI requirements is relatively simple."⁸ Similarly, when, as in the present case, BSPC's payphone service facilities are not collocated with basic service facilities and connect to the network through standard tariffed offerings, this CEI parameter is easily met.

⁷ *Computer III Phase I Order*, 104 FCC 2d at 1039.

⁸ *Id.*, at n.220.

Unbundling of Basic Services. “As part of its CEI offering, the basic services and basic service functions that underlie the carrier’s [payphone] service offering must be unbundled from other basic service offerings and associated with a specific rate element in the CEI tariff.”⁹

BellSouth will satisfy this requirement by offering (and using in its own payphone operations) two service arrangements that meet the needs of payphone service providers. Both of these service arrangements are unbundled from other basic service offerings and are associated with specific rates in BellSouth’s tariffs.

First, BellSouth offers payphone providers “Public Telephone Access Service for Customer Provided Equipment (CPE).” This service is an exchange line service provided for use with customer provided coin-operated or noncoin-operated public telephones that are frequently referred to as “smart sets.” An operator cannot perform coin control functions on this line. This service includes screening information to prevent third number and collect calls from being billed to the customer’s line. Tariffs for this service have been in effect in all of BellSouth’s states since 1985. A copy of this tariff from Florida, which is representative of other BellSouth state tariffs, is included as Appendix A.

Second, BellSouth offers payphone service providers “SmartLine® Service for Public Telephone Access.” This service is a standard Dial Tone First (DTF) coin line for customer provided pay telephones that are commonly referred to as “dumb sets.” This service is provided on a two-way basis, or on an outward-only basis. Operator Call Screening and Billed Number Screening are provided on this line. In addition, coin signaling and coin rating functions are provided by BellSouth’s network as part of this service. Tariffs for this service are in effect in all

⁹ *Id.*, at 1040.

of BellSouth's states,¹⁰ and representative copies from Florida (with alternative flat rates and usage rated service) and from Georgia (flat rated only) are included as Appendix B.

Additional services that will be equally available to all payphone service providers, including BSPC, include local usage detail, coin refund and repair referral service, and answer supervision. BSPC will subscribe to whichever of these tariffed offerings meets its needs in any given circumstances, just as do other payphone service providers.

Resale. The Commission "require[s] the carrier's [payphone] service operations to take the basic services used in its [payphone] service offerings at their unbundled tariffed rates as a means of preventing improper cost-shifting to regulated operations and anticompetitive pricing in unregulated markets."¹¹ BellSouth will satisfy this requirement by having BSPC subscribe to the tariffed services at the same tariffed rates as any other subscriber to these services.¹²

Technical Characteristics. "As part of its CEI offering to [payphone] service competitors, a carrier must provide basic services with technical characteristics that are equal to those of the basic services it utilizes for its own [payphone] services."¹³ Because BellSouth's payphone

¹⁰ Tariffs for Smartline Service became effective in Mississippi in 1993; in Alabama, Florida, Georgia, Kentucky, North Carolina, and South Carolina in 1994; and in Tennessee and Louisiana in October and November, respectively, of this year.

¹¹ *Computer III Phase I Order*, 104 FCC 2d, at 1040.

¹² The Commission observed in the *Computer III* proceeding that because this requirement could be satisfied through "accounting techniques", a carrier would not be required to locate its enhanced service operations in a corporate entity separate from the basic service operations. *Id.* Implicitly, where a carrier does locate its payphone operations in a separate corporate entity that actually purchases services at tariffed rates, such "accounting techniques" are not necessary and this requirement is easily met.

¹³ *Computer III Phase I Order*, at 1041.

operations will be using the same basic services as its payphone competitors, there will be no difference in the technical characteristics of those services.

Installation, Maintenance, and Repair. "The time periods for installation, maintenance and repair of the basic services and facilities included in a CEI offering must be the same as those the carrier provides to its own [payphone] operations."¹⁴ BellSouth's payphone operations will interface with BellSouth's basic service operations for service ordering, installation, maintenance and repair through the same channels, and will be subject to the same scheduling procedures and time periods, as any other payphone service provider. BellSouth's payphone operations will not be given any preference or priority that is not also available to other service providers, nor will BellSouth's payphone operations have access to systems supporting basic service order entry, installation, maintenance, or repair functions unless such access is also available to other payphone service providers on nondiscriminatory terms.

End User Access. "If a carrier offers end users the ability to use abbreviated dialing or signaling to activate or access the carrier's [payphone] offerings; it must provide as part of its CEI offering the same capabilities to end users of all [payphone] services that utilize the carrier's facilities."¹⁵ BellSouth's payphone operations will purchase and utilize the same tariffed services available to all other payphone service providers. Accordingly, end users of BellSouth's payphone services will not have available to them any network features, including abbreviated dialing or special signaling, that are not also available to end users of other payphone service providers.

¹⁴ *Id.*

¹⁵ *Id.*

CEI Availability. "A carrier's CEI offering must be fully operational and available on the date that it offers its corresponding [payphone] service to the public."¹⁶ As indicated above, BellSouth's "Public Telephone Access Service for Customer Provided Equipment (CPE)" is fully operational and available in all of its states pursuant to tariffs that have been in effect since 1985. Similarly, BellSouth's "SmartLine Service for Public Telephone Access" is also fully operational and available in all BellSouth states pursuant to effective tariffs. Accordingly, this condition is satisfied.

An additional aspect of this CEI parameter imposed in the *Computer III Phase I Order* is that "the carrier must specify a reasonable time prior to [its offering of its enhanced service to the public] during which prospective users of CEI, such as enhanced service competitors, can utilize the CEI facilities and services for testing their enhanced service offerings."¹⁷ The tariffed services to be used by BellSouth's payphone operations have been available to potential payphone competitors for, in most cases, from two to eleven years. Potential and actual payphone competitors thus have already had ample opportunity to engage in any "testing" they may believe necessary. No purpose would be served by now specially designating some additional time period as a window of opportunity for testing. Nor does it even make sense to conceive of a testing opportunity that would somehow exist before BellSouth offers its payphone service to the public. BellSouth *already* offers its payphone services to the public using facilities and functionalities of the network that are the very same facilities and functionalities that are embodied in the tariffed services BellSouth's payphone operations will now purchase.

¹⁶ *Id.*

¹⁷ *Id.*

In light of this circumstance, to now impose a tariffed service testing opportunity requirement before BellSouth could use those tariffed services in its payphone operations would compel either of two illogical results. BellSouth would either have to continue offering payphone service under the existing bundled structure, or BellSouth would have to discontinue payphone service for the duration of the testing period. Neither of these results would be consistent with the Commission's objectives in this proceedings, nor would there be any offsetting benefit achieved through designation of a testing period. Accordingly, the Commission should refrain from applying the "testing opportunity" aspect of the "CEI Availability" parameter to BellSouth's payphone CEI implementation.

Minimization of Transport Costs. In the *Computer III Phase I Order*, the Commission required carriers to demonstrate in their CEI plans the steps the carrier would take to reduce transport costs for competitors.¹⁸ As explained in the *Computer III Phase II Reconsideration Order*, this requirement was designed to reduce transmission cost differences between collocated BOC enhanced service operations and noncollocated enhanced service providers.¹⁹ Of course, where a BOC's payphone operations subscribe to the same tariffed services as other payphone service providers (as BSPC will do) and are not collocated with the BOC's basic network services (as BSPC is not), no such differences in transmission costs exist. "Where such differences do not exist, no action is required to further minimize transmission costs."²⁰ Accordingly, BellSouth satisfies this CEI parameter.

¹⁸ *Computer III Phase I Order*, at 1042.

¹⁹ *Computer III Phase II Reconsideration Order*, 3 FCC Rcd 1150.

²⁰ *Pacific Bell and Nevada Bell Plan for the Provision of Voice Mail Services, Memorandum Opinion and Order*, 3 FCC Rcd 1095 (February 18, 1988).

Recipients of CEI. This CEI parameter prohibits a carrier from restricting the availability of CEI services to any particular class of customer. The basic service tariffs to which BellSouth's and other providers' payphone services will subscribe contain no inherent class of customer restrictions and are available to any customer for any lawful purpose. Accordingly, this condition is also met.

Other Nonstructural Safeguards

In addition to describing the methods by which it will satisfy the CEI parameters, a BOC also must describe its plans for meeting other nonstructural safeguards imposed by the Commission.

Cost Allocations and Affiliate Transactions. The nonstructural safeguards adopted in the *Computer III* proceeding for enhanced services and adapted in this proceeding for payphone services include the Commission's Part 64 cost allocation rules and Part 32 affiliate transaction rules. These rules were first developed in the *Joint Cost Proceeding* and later strengthened in the *Computer III Remand* proceeding. BellSouth will comply with these rules as they may be amended from time to time²¹ and in accordance with BellSouth's Cost Allocation Manual, as it may be amended from time to time and approved by the Commission.

Nondiscriminatory Service Quality, Installation and Maintenance. The Commission requires BOCs to indicate in their CEI plans how they will comply with the *Computer III* and *ONA* requirements regarding nondiscrimination in the quality of service, installation, and maintenance of basic services provided to the BOC's own and other payphone service providers.

²¹ See, *Implementation of the Telecommunications Act of 1996: Accounting Safeguards Under the Telecommunications Act of 1996, Notice of Proposed Rulemaking*, 11 FCC Rcd 9054 (1996).

BellSouth's payphone operations will utilize the same methods of ordering and obtaining service and maintenance as other payphone service operators and its service and maintenance requests will be processed through the same systems as those of other service providers. These standard systems and processes ensure against any systematic discrimination in favor of BellSouth's payphone operations.

Payphone service providers ordering services from BellSouth should be familiar with these procedures via their use of BellSouth's Independent Payphone Provider Service Center (IPPSC). BellSouth's IPPSC provides a central point of contact for IPPs to place orders for underlying tariffed services. BellSouth also provides payphone service providers with a Private Payphone Provider Handbook which includes, among other things, a description of service order procedures, installation procedures and schedules, and repair procedures. This handbook is updated regularly and the updates are distributed to IPPSC customers on a quarterly basis.

As indicated above, BellSouth's payphone operations will contact the IPPSC through the same channels as other payphone service providers and will be subject to the same processes and systems on a nondiscriminatory basis. BSPC has its own field service personnel who install, repair, and maintain the payphone sets and ancillary equipment; therefore, BellSouth Telecommunications, Inc. will provide only tariffed access lines and services to BSPC, on the same terms and conditions as provided to other payphone service providers. In addition, BellSouth's service order, installation, and maintenance and repair personnel will be trained not to discriminate in favor of BellSouth's payphone operations. Finally, BellSouth also will begin including services provided to payphone service operators in its periodic ONA nondiscrimination reports.

Customer Proprietary Network Information. The Commission requires a BOC to explain in its CEI plan how it will comply with the CPNI requirements of Section 222 of the Communications Act²² and of the *Computer III* and *ONA* proceedings, to the extent the latter requirements are not inconsistent with the former. Consistent with BellSouth's past practices, CPNI related to the basic telecommunications services to which any payphone service provider subscribes is treated as "presumptively restricted" and will not be available to or accessible by any other payphone service provider, including BellSouth's own payphone service operation, absent affirmative direction otherwise by the subscribing payphone service provider. Aggregate CPNI will be made available to BellSouth's payphone services operation, if at all, only pursuant to the conditions of Section 222(c)(3).

Network Interface Information Disclosure. BellSouth will comply with the Commission's established network disclosure rules in its provision of new services or network changes that affect the interconnection or interoperability of payphone services with the network. BellSouth has previously made appropriate disclosure of interface information related to the tariffed services covered by this CEI plan.

CONCLUSION

By this Plan, BellSouth has demonstrated its compliance with the Commission's CEI requirements for BellSouth's payphone service operations. Accordingly, BellSouth urges the


²² 47 U.S.C. § 222.

Commission to approve this Plan expeditiously to allow BellSouth's payphone service operations to begin competing on equal footing with its competitors.

Respectfully submitted,

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APPENDIX A